

Message Text

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ORIGIN EB-07

INFO OCT-01 ARA-06 ISO-00 L-03 CAB-02 CIAE-00 COME-00

DODE-00 DOTE-00 INR-07 NSAE-00 CIEP-01 FAA-00 FEA-01

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TO AMEMBASSY BRASILIA PRIORITY

INFO AMCONSUL RIO DE JANEIRO

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E.O. 11652: N/A

TAGS: EAIR, BR, US

SUBJECT: CIVAIR - FUEL ALLOCATION IN U.S. IN LIGHT OF
DISCRIMINATORY PRICING IN BRAZIL

REF : BRASILIA 7384

1. DEPT REGRETS DELAY IN RESPONDING TO REFTTEL, BUT
HOPES TO SEND CABLE SHORTLY.

2. IN MEANTIME VARIG, WHICH HITHERTO HAS USED ONLY
BONDED FUEL IN U.S., DESPITE FACT BONDED COSTS ABOUT
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TEN CENTS A GALLON MORE THAN DOMESTIC FUEL, HAS APPLIED

FOR ALLOCATION OF DOMESTIC FUEL TO MEET ALL ITS NEEDS
FOR 12 MONTH PERIOD BEGINNING OCTOBER 1, 1976.

3. FEA REGULATIONS PROVIDE THAT IN GENERAL, AVIATION
FUEL FOR INTERNATIONAL FLIGHTS SHALL BE ALLOCATED ON A
NONDISCRIMINATORY BASIS AMONG INTERNATIONAL CARRIERS.
HOWEVER, SUCH ALLOCATIONS MAY BE MODIFIED BY THE FEA,
FOLLOWING CONSULTATION WITH APPROPRIATE FEDERAL AGENCIES,
ON A CASE-BY-CASE BASIS, IF REQUIRED TO ENCOURAGE
RECIPROCAL NONDISCRIMINATORY ALLOCATION OF FUEL FOR
U.S. CARRIERS ENGAGED IN INTERNATIONAL FLIGHTS.

4. IT IS DEPT'S VIEW THAT BRAZIL'S UNJUSTIFIED REFUSAL
TO GRANT U.S. SUPPLEMENTAL CARRIERS ACCESS TO FUEL ON
SAME TERMS AS TO OTHER AIRLINES ENGAGING IN NONSCHEDULED
SERVICES CONSTITUTES DISCRIMINATORY ACTION. DEPT HAS
CONVEYED THIS FINDING OF DISCRIMINATION TO FEA WHICH,
INTERPRETING ITS OWN REGULATORY AUTHORITY, HAS DETERMINED
THAT SUCH DISCRIMINATION CONSTITUTES DISCRIMINATORY
ALLOCATION JUSTIFYING LIMITATION OF ALLOCATION TO
VARIG. THUS, PURSUANT TO DEPT'S REQUEST, FEA HAS
GRANTED ALLOCATION OF DOMESTIC FUEL TO VARIG, BUT
LIMITED IT TO MEET ITS NEEDS FOR 90 DAY PERIOD, BEGINNING
OCTOBER 1, 1976. FEA ORDER DOES NOT STATE REASONS FOR
ACTION. QUESTION OF FURTHER ALLOCATIONS IS TO BE HELD
PENDING FOR TIME BEING.

5. AT ITS DISCRETION, EMBASSY MAY EXPLAIN TO BRAZILIANS,
EITHER ON ITS OWN INITIATIVE OR IN RESPONSE TO QUESTIONS,
THAT IT WAS CONSIDERED INAPPROPRIATE TO GRANT VARIG
MORE THAN 3 MONTHS ACCESS TO FUEL CHEAPER THAN THAT IT
HAS HITHERTO USED AT A TIME WHEN U.S. HAS BEEN WAITING
FOR MORE THAN A YEAR FOR REMOVAL OF DISCRIMINATORY TAX
ON U.S. SUPPLEMENTALS. 90 DAY ALLOCATION DOES NOT
PRECLUDE ADDITIONAL ALLOCATIONS IN DUE COURSE. KISSINGER

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